

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 JORGE VAZQUEZ,

4 Petitioner

5 v.

6 JO GENTRY, et al.,

7 Respondents

Case No.: 2:18-cv-00117-JAD-VCF

**Order Denying Motion to
Appoint Counsel.**

[ECF No. 13]

8
9 Respondents have filed a motion to dismiss Jorge Vazquez's pro se 28 U.S.C. § 2254
10 habeas corpus petition.¹ Vazquez has not responded to the motion but has filed a motion for
11 appointment of counsel.² I deny the motion to appoint counsel and give Vazquez until February
12 21, 2019, to file an opposition to the motion to dismiss.³

13 There is no constitutional right to appointed counsel for a federal habeas corpus
14 proceeding.⁴ The decision to appoint counsel is generally discretionary.⁵ However, counsel
15 must be appointed if the case is so complex that denying counsel would amount to a denial of
16 due process or the petitioner has so little education that he is incapable of fairly presenting his
17 claims.⁶

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19 ¹ ECF No. 7.

20 ² ECF No. 13.

21 ³ ECF No. 7.

22 ⁴ *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993).

23 ⁵ *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986), cert. denied, 481 U.S. 1023 (1987);
Bashor v. Risley, 730 F.2d 1228, 1234 (9th Cir.), cert. denied, 469 U.S. 838 (1984).

⁶ *See Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir.1970).

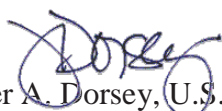
1 Vazquez's petition clearly presents the issues that he wishes to raise, and the legal issues
2 do not appear to be complex. After respondents moved to dismiss the petition as untimely,
3 Vazquez filed this motion for counsel. He states that he does not read, write or speak English.
4 However, it appears that he wrote this motion for counsel. He explains that another inmate
5 assisted him with filing his petition, which the petition reflects.⁷ Vazquez also attached an
6 authorization-for-legal-assistance-by-inmates form that reflects that he sought legal assistance
7 from other inmates.⁸ He informs the court that the inmate who helped him is no longer at the
8 same institution.

9 The court is not persuaded that counsel is justified. There is no indication that Vazquez
10 could not get authorization for another inmate to help him. And while lack of English-language
11 skills does not necessarily warrant the appointment of counsel, the state-court records provided
12 by respondents in support of their motion to dismiss undermine Vazquez's claim that he does not
13 speak English.⁹ The motion, therefore, is denied.

14 **IT IS THEREFORE ORDERED** that petitioner's motion for appointment of counsel
15 **(ECF No. 13) is DENIED.**

16 **IT IS FURTHER ORDERED** that petitioner has until **February 21, 2019**, to file a
17 response to the motion to dismiss, if any. Thereafter, respondents may reply in accordance with
18 the local rules.

19 Dated: January 30, 2019

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21 _____
22 Jennifer A. Dorsey, U.S. District Judge

23 ⁷ ECF No. 5 at 8.

⁸ ECF No. 13 at 2.

⁹ See ECF Nos. 8–10.